

REMARKS

The Office Action mailed July 18, 2006, has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-32 are now pending in this application. Claims 1-32 stand rejected.

The rejection of Claims 27-32 under 35 U.S.C. 112, second paragraph, as being indefinite is respectfully traversed. Specifically, Applicant has amended Claims 27-32 to correct the informalities noted in the Office Action. Accordingly, Applicant respectfully requests that the Section 112 rejection of Claims 27-32 be withdrawn.

The rejection of Claims 1-25 under 35 U.S.C. § 102(e) as being unpatentable over Chartier (U.S. Pat. No. 6,481,257) is respectfully traversed.

Chartier describes an automobile repair clamp (10) that includes two U-shaped jaws (22, 24), a locking mechanism (26), and an adjustable pivot assembly (28). The U-shaped jaws (22, 24) include respective adjustable rotatable grippers (29, 30) at one end, and are coupled to the locking mechanism (26) at their respective opposite ends. The U-shaped jaws (22, 24) also include bridges (68, 70) that extend between the locking mechanism (26) and the rotatable grippers (29, 30). A radially outer surface of each respective bridge (68, 70) is formed with a serrated surface (98, 100). A radially inner surface of each rotatable gripper (29, 30) is formed with a serrated surface. The adjustable pivot assembly (28) includes a bolt (62) that extends through a slot (36, 38) formed within bridges (22 and 24), and pivot locators (78 and 90) that are formed with serrated surfaces (94, 96). In use, locking mechanism 26 is

loosened to enable clamp (10) to be secured to an anchor point (12) on a damaged automobile (14), such that clamp grippers (29, 30) are coupled to opposite sides of anchor point (12). Once securely coupled to automobile (14), pivot locator surfaces (94, 96) engage bridge surfaces (98, 100) to maintain the position of bolt (62) within the bridge slots (36, 38).

Claim 1 recites a tool comprising “an elongate body . . . a pair of opposing arms comprising a first arm and a second arm extending outwardly from said body . . . each said arm comprising an inner face and an outer face, at least one of said first arm inner face and said second arm inner face comprising a plurality of teeth extending along at least one of said first arm inner face and said second arm inner face substantially from a radially outer tip of said face to said body . . . at least one of said first arm outer face and said second arm outer face comprising a plurality of grooves defined therein.”

Chartier does not describe nor suggest a tool as recited in Claim 1. Specifically, Chartier does not describe or suggest a tool comprising a body and at least one arm that includes a plurality of teeth that extending along an inner face from a radial outer tip of the arm to the body. Rather, in contrast to the present invention, Chartier describes a U-shaped jaw that includes a rotatable gripper coupled to an end of the jaw, wherein the rotatable gripper includes a serrated surface. Moreover, Chartier does not describe nor suggest a tool including at least one arm that includes an outer face that is formed with a plurality of grooves defined therein. Rather, in contrast to the present invention, Chartier describes a U-shaped jaw that includes a pair of bridges that are formed with a single slot that extends through a serrated outer surface of the bridge. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Chartier.

Claims 2-13 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-13 are considered in combination with the recitations of Claim 1, Applicant submits that Claims 2-13 are likewise patentable over Chartier.

Claim 14 recites a rescue tool for use with emergency extrications from a structure, said tool comprising “a shaft comprising a centerline axis . . . and a pair of opposing arms comprising a first arm and a second arm, at least one of said first arm and said second arm is slidably coupled to said shaft and is moveable along said shaft in a direction substantially parallel to said shaft centerline axis, each said arm comprises an inner face and an outer face, at least one of said first arm inner face and said second arm inner face comprising a plurality of teeth extending along at least one of said first arm inner face and second arm inner face, said plurality of teeth extend substantially from a radially outer tip of said face to said shaft, at least one of said first arm outer face and said second arm outer face comprising a plurality of grooves defined therein, at least one of said first arm and said second arm extends substantially perpendicularly outward from said shaft.

Chartier does not describe nor suggest a rescue tool as recited in Claim 14. Specifically, Chartier does not describe nor suggest a rescue tool including a shaft and at least one arm that includes a plurality of teeth extending along an inner face of the arm, wherein the teeth extend substantially from a radial outer tip of the arm to the shaft. Rather, in contrast to the present invention, Chartier describes a U-shaped jaw that includes a rotatable gripper coupled to an end of the jaw, wherein the rotatable gripper includes a serrated surface. Moreover, Chartier does not describe nor suggest a rescue tool including at least one arm that includes an outer face that is formed with a plurality of grooves defined therein.

Rather, in contrast to the present invention, Chartier describes a U-shaped jaw that includes a pair of bridges that are formed with a single slot that extends through a serrated outer surface of the bridge. Accordingly, for at least the reasons set forth above, Claim 14 is submitted to be patentable over Chartier.

Claims 15-25 depend, directly or indirectly, from independent Claim 14. When the recitations of Claims 15-25 are considered in combination with the recitations of Claim 14, Applicant submits that Claims 15-25 are likewise patentable over Chartier.

For at least the reasons set forth above, Applicant respectfully request the Section 102(e) rejection of Claims 1-25 is withdrawn.

The rejection of Claims 1-32 under 35 U.S.C. § 103(a) as being unpatentable over Pfauser (U.S. Pat. No. 2,165,503) in view of Virgil (U.S. Pat. No. 6,311,537) is respectfully traversed.

Pfauser describes a portable hydraulic metal straightening machine which includes a ram unit (13) that is slidably coupled to a pipe (200). A movable bracket or jaw (205) is slidably coupled to pipe (200) and includes a threaded socket (206) which enables jaw (205) to be coupled to ram unit (13). An opposing jaw (203) is slidably coupled to pipe (200) and is fixed in position relative to pipe (200) via a lock pin (204) that extends through jaw (203) and pipe (200). An end bracket (205') is coupled to an opposite end of ram unit (13), such that operation of a plunger (115) coupled between jaw (205) and ram unit (13) controls axial movement of jaw (205) with respect to pipe (200). As such, jaw (205) may cooperate with jaw (203) to clamp a member therebetween. End bracket (205') is secured to pipe (200) by a

pin (204) to facilitate preventing axial or rotational movement of ram unit (13) towards jaw (205'). Notably, Pfauser does not describe nor suggest teeth extending across any of jaws (205, or 203) or across end bracket (205').

Virgil describes a blade tip (200) that may be coupled to a spreader type rescue tool (10) that includes a pair of arms (130) that are pivotally coupled to a main body (100) such that an inner surface of the tips are substantially co-planar with an inner surface of the arms. Blade tips (200) are coupled to a tapered flange (131) formed at an end portion of each arm, such that when coupled to arms (130), blade tips (200) extend generally axially from each arm (130). In each embodiment, tips (200) include a plurality of teeth (163 or 204) which extend across an outer face of each tip (200), and in some embodiments, include a plurality of teeth (216) which extend only partially across the inner surface of each tip (200).

Applicant respectfully submits that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been an obvious to one of ordinary skill in the art to combine the Pfauser tool with the teachings of Virgil. More specifically, it is respectfully submitted that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the Applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Moreover, the Federal Circuit has determined that:

[i]t is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.”

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, “it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art.” In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicant’s disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant’s disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown. Since there is no teaching or suggestion in the cited art for the claimed combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103(a) rejection of Claims 1-32 be withdrawn.

Moreover, if art “teaches away” from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. More specifically, Applicant respectfully submits that Virgil teaches

away from Pfauser, and as such, thus supports the nonobviousness of the present invention. More specifically, Virgil describes blade tips which may be coupled to arms that are pivotably coupled to a body, but does not describe nor suggest that the tips include teeth that extend from the body to the tip of the arms, and in contrast to Virgil, Pfauser describes a metal straightening machine which includes a plurality of jaws which are slidably coupled to a pipe, wherein none of the jaws is described as, or is suggested as including teeth. Moreover, at column 5, lines 11-16, Virgil describes that the blade tips are both moveable and either could be used to brace the hydraulic tool against a structure, while in contrast, Pfauser describes that one of the jaws is fixed in position by a retaining pin, such that no external bracing is necessary.

Moreover, Applicant respectfully submits that both Virgil and Pfauser teach away the present invention, and as such, thus supports the nonobviousness of the present invention. More specifically, neither Virgil nor Pfauser, considered alone or in combination, describe or suggest a plurality of teeth extending over the inner surface of an arm wherein the teeth extend across the inner surface between the body and the radial outer tip of the arm. Consequently, the presently pending claims are patentably distinguishable from the cited combination.

Claim 1 recites a tool comprising “an elongate body . . . a pair of opposing arms comprising a first arm and a second arm extending outwardly from said body . . . each said arm comprising an inner face and an outer face, at least one of said first arm inner face and said second arm inner face comprising a plurality of teeth extending along at least one of said first arm inner face and said second arm inner face substantially from a radially outer tip of

said face to said body . . . at least one of said first arm outer face and said second arm outer face comprising a plurality of grooves defined therein.”

No combination of Pfaußer and Virgil describes or suggests a tool as recited in Claim 1. Specifically, no combination of Pfaußer and Virgil describes or suggests a tool comprising a body and at least one arm that includes a plurality of teeth that extending along an inner face from a radial outer tip of the arm to the body. Rather, in contrast to the present invention, Pfaußer describes a plurality of jaws which do not include any teeth, and Virgil describes a blade tip that extends generally axially outwardly from an arm, and includes a plurality of teeth that extend only partially across a portion of the tip, rather than across the arm inner face and between a radially outer tip of the face and the body. Moreover, no combination of Pfaußer and Virgil describes or suggests a tool including at least one arm with an outer face including a plurality of grooves defined therein. Rather, in contrast to the present invention, Pfaußer describes a plurality of jaws which do not include any grooves, and Virgil describes a blade tip that extends generally axially outwardly from an arm, and includes a plurality of teeth which extend across an outer face of the tip. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Pfaußer in view of Virgil.

Claims 2-13 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2-13 are considered in combination with the recitations of Claim 1, Applicant submits that Claims 2-13 are likewise patentable over Pfaußer in view of Virgil.

Claim 14 recites a rescue tool for use with emergency extrications from a structure, said tool comprising “a shaft comprising a centerline axis . . . and a pair of opposing arms comprising a first arm and a second arm, at least one of said first arm and said second arm is slidably coupled to said shaft and is moveable along said shaft in a direction substantially parallel to said shaft centerline axis, each said arm comprises an inner face and an outer face, at least one of said first arm inner face and said second arm inner face comprising a plurality of teeth extending along at least one of said first arm inner face and second arm inner face, said plurality of teeth extend substantially from a radially outer tip of said face to said shaft, at least one of said first arm outer face and said second arm outer face comprising a plurality of grooves defined therein, at least one of said first arm and said second arm extends substantially perpendicularly outward from said shaft.

No combination of Pfauser and Virgil describes or suggests a rescue tool as recited in Claim 14. Specifically, no combination of Pfauser and Virgil describes or suggests a rescue tool including a shaft and at least one arm that includes a plurality of teeth extending along an inner face of the arm, wherein the teeth extend substantially from a radial outer tip of the arm to the shaft. Rather, in contrast to the present invention, Pfauser describes a plurality of jaws which do not include any teeth, and Virgil describes a blade tip that extends generally axially outwardly from an arm, and includes a plurality of teeth that extend only partially across a portion of the tip, rather than across the arm inner face and between a radially outer tip of the face and the shaft. Moreover, no combination of Pfauser and Virgil describes or suggests a tool including at least one arm with an outer face including a plurality of grooves defined therein. Rather, in contrast to the present invention, Pfauser describes a plurality of jaws

which do not include any grooves, and Virgil describes a blade tip that extends generally axially outwardly from an arm, and includes a plurality of teeth which extend across an outer face of the tip. Accordingly, for at least the reasons set forth above, Claim 14 is submitted to be patentable over Pfauser in view of Virgil.

Claims 15-25 depend, directly or indirectly, from independent Claim 14. When the recitations of Claims 15-25 are considered in combination with the recitations of Claim 14, Applicant submits that Claims 15-25 are likewise patentable over Pfauser in view of Virgil.

Claim 26 recites a method of emergency extrication from a structure with a rescue tool, said method comprising “providing a rescue tool including a body and a pair of arms coupled to the body and extending outwardly from the body, wherein at least one of the pair of arms includes an inner face including a plurality of teeth extending along the inner face substantially from the body to the tip of the arm, and an outer face including a plurality of grooves defined therein; . . . positioning the rescue tool adjacent the structure such that at least one of the pair of arms is positioned such that the plurality of grooves contacts the structure . . . and performing the emergency extrication from the structure.”

No combination of Pfauser and Virgil describes or suggests a method as recited in Claim 26. Specifically, no combination of Pfauser and Virgil describes or suggests providing a rescue tool including a body and at least one arm including a plurality of teeth extending along an inner face, wherein the teeth extend substantially from the body to the tip of the arm. Rather, in contrast to the present invention, Pfauser describes a providing a tool including a plurality of jaws which do not include any teeth, and Virgil describes providing a blade tip

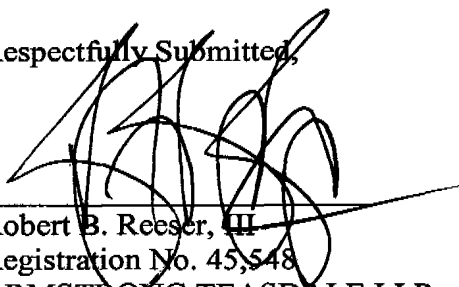
that extends generally axially outwardly from an arm, and includes a plurality of teeth that extend only partially across a portion of the tip, rather than across the arm inner face and between a body and the top of an arm. Furthermore, no combination of Pfauser and Virgil describes nor suggests providing a rescue tool including at least one arm with an outer face comprising a plurality of grooves defined therein. Rather, in contrast to the present invention, Pfauser describes a plurality of jaws which do not include any grooves, and Virgil describes a blade tip that extends generally axially outwardly from an arm, and includes a plurality of teeth which extend across an outer face of the tip. Accordingly, for at least the reasons set forth above, Claim 26 is submitted to be patentable over Pfauser in view of Virgil.

Claims 27-32 depend, directly or indirectly, from independent Claim 26. When the recitations of Claims 27-32 are considered in combination with the recitations of Claim 26, Applicant submits that Claims 27-32 are likewise patentable over Pfauser in view of Virgil.

For the reasons set forth above, Applicant respectfully request that the Section 103(a) rejection of claims 1-32 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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